

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL ALAN SHAW,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

CASE NO. 3:17-CV-5779-DWC

ORDER ON 406(B) MOTION FOR  
ATTORNEY'S FEES

Presently before the Court is Plaintiff's Motion and Memorandum for an Award of Attorney's Fees Pursuant to 42 U.S.C. § 406(b). Dkt. 27, 28. Pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73 and Local Rule MJR 13, the parties have consented to have this matter heard by the undersigned Magistrate Judge. *See* Dkt. 2.

Under 42 U.S.C. § 406(b), the Court may allow a reasonable fee for an attorney who represented a Social Security claimant before the Court and obtained a favorable judgment, as long as such fee is not in excess of 25% of the total past-due benefits. *See Grisbrecht v. Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first to such agreement and will conduct an independent review to assure the reasonableness of the

1 fee requested, taking into consideration the character of the representation and results achieved.  
2 *See id.* at 807, 808. Although the fee agreement is the primary means for determining the fee, the  
3 Court may reduce the fee for substandard representation, delay by the attorney, or because a  
4 windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151 (9th  
5 Cir. 2009) (citing *Grisbrecht*, 535 U.S. at 808).

6 Here, Plaintiff signed a contingency fee agreement agreeing to pay his attorney a fee  
7 equal to 25% of the amount awarded for past-due benefits. *See* Dkt. 27-2. The representation was  
8 not substandard and the results achieved were excellent. *See* Dkt. 20; Dkt. 27-2; *Grisbrecht*, 535  
9 U.S. at 808. This Court remanded this matter to the Administration for further proceedings and,  
10 following remand, Plaintiff was awarded benefits. *See* Dkt. 20, 27-2. There is no evidence of an  
11 excessive delay by the attorney or that a windfall will result from the requested fee. Furthermore,  
12 the Commissioner has filed a Response stating the Commissioner does not object to the award.  
13 Dkt. 29.

14 Plaintiff moves for attorney's fees in the total amount of \$ 35,805.50, which is 25% of  
15 Plaintiff's total past-due benefits. *See* Dkt. 27, 27-2, 28. Previously, Plaintiff was awarded an  
16 attorney fee of \$ 10,274.71 under the Equal Access to Justice Act ("EAJA"). Dkt. 26. Therefore,  
17 Plaintiff is moving for a remaining attorney's fee award of \$ 25,530.79. After review of the  
18 relevant record, the Court orders attorney's fees in the amount of \$ 25,530.79, minus any  
19 applicable processing fees as allowed by statute, be awarded to Plaintiff's attorney, Charles W.  
20 Talbot, pursuant to 42 U.S.C. § 406(b).

21 Dated this 22nd day of November, 2021.

22   
23 \_\_\_\_\_

24 David W. Christel  
United States Magistrate Judge